

Appendix

Hearing May 16, 2005

Testimony of Kevin Kham Fongnaly (“the husband”)

(Direct Examination)

* * *

Q: Mr. Fongnaly, did there come a time when you learned your wife was having an affair with a man named Ivie?

A: Late 2003. When my wife graduate from beauty school, I want to congratulate her. And she said, no, you don't have to go. You save your vacation and PTO and you stay at work. And I believed her. I think she's not going to do anything.

And after that I come home from work and I ask her, who go over your graduation beauty school. And she say, Darrell Ivie, my boss, go. I just not really serious about she hang around this man. And there be times she would come home when get out of work at 11:30 at night, and she's supposed to be home about 12:15. And she come 2:00, 1:00, sometime 4:30. And she didn't show me the check, she don't want to show me the check. She say, overtime, overtime. But I didn't see any overtime.

And she ask me the one night, Kevin, did you pay for the FBI or somebody follow me. And my friend take a break at the building, and they saw that somebody take my picture, I mean, my car picture. I say, if you didn't do anything, you feel clean. You don't worry about it. If you do something wrong, it you problem. I don't know what you talk about.

And I get up, come to the downstairs, fix to go to work, and she follow me to the bathroom. And she get in the bathroom and lock on the door. And she point at me, you really do that. You hired somebody to follow me? I said, please, let me finish my necessary thing and leave me along. I fix to go to work. I cannot finish me – please let me go out, Vickie, I have to go to work. And she pointed like this (indicating), tell me the truth. I say, if you do something, you know what you doing. I don't have to tell you.

After that, I get up from the bathroom. I cry. She smack on my back, but not hurt, but to hurt my feelings. I run out. Amanda heard that. What's going on, Dad, and Mom? She come down. And Vickie said, he hire somebody to follow me.

* * *

Q: Did there come a time when you and someone from work went to look for her car somewhere?

A: One day I cry; I'm sad. And I come closer to my friend, Randy Pepper. I ask him, Randy, would you help me? What's your problem, he said. I have a big problem in my house. My wife hang around –

* * *

Q: Did you and Randy go somewhere together?

A: I ask him to drive to van to come take the picture of her car in the apartment that she spend the time with her boyfriend.

Q: Did you go with him to take the picture?

A: With Randy. Randy drive. I very shaky. I'm so nervous that day.

Q: All right. And at the deposition your wife admitted that she had been having a sexual affair with Mr. Ivie; is that correct?

A: Yes, she admit that.

* * *

(Cross-Examination)

* * *

Q: You are concerned that your wife had a relationship with Mr. Ivie –

A: Yes.

Q: – is that true?

A: Yes.

Q: And she acknowledged and admitted that she had a limited relationship with Mr. Ivie the last time we were in Court, didn't she, back last September?

A: Yes, she admit that.

* * *

Testimony of Vienqrhone Vickie Fongnaly (“the wife”)
(Direct Examination)

* * *

Q: All right. Now, you have admitted that you have an ongoing affair with a Mr. Ivie from your work; is that correct?

A: Yes, sir.

Q: Have you told people that you and he intend to marry?

A: No, sir. Because people gossip. You know how they is.

Q: If people are gossiping there, they didn't get it from you?

A: People might, jealous people might say something about, you know, that's a natural comment everywhere.

Q: All right. Would it be okay with you if the Judge ordered that neither you nor your husband should have overnight guests while the children are present unless that person is related to you or your husband by blood or marriage? Would that be okay with you?

A: I don't understand what you mean, sir.

Q: All right.

A: I'm sorry.

Q: After your divorce and you're a single woman, do you think it would be appropriate for you to have your boyfriend spend the night with you while your children are in the house?

A: No.

Q: And it wouldn't be right for your husband, if he had a girlfriend, to have her spend the night while the children are in the house?

A: No.

Q: Okay. So, you're in agreement that if the Court ordered that, that would be fine with you?

A: Yes, sir. But after long term, I see whoever I want.

Q: All right. I don't believe I understood what you just said.

A: I said, after long, in the future, in the future – not now, not next month, not next couple months – I talk about in the future, long-term future, whoever I want to marry, whoever I want to see if my decision, or his decision, whatever you want to do.

Q: Well, would you agree that obviously if you got married, it would be okay for your husband to be there with you while the children are there?

A: If he want to, I don't mind. But my children, yes, I want them to be with me.

Q: All right. But not until after you're married?

A: What do you mean, sir, after I'm married?

Q: Well, do you plan on marrying Mr. Ivie?

A: I don't know. I didn't say that I plan to marry him. I don't know.

Q: But you don't plan on having him in your home overnight while your children are there?

A: Yes, sir. I don't want that.

* * *

Q: All right. This was 1995, 1996. Is that when you started having affairs –

A: No, sir. During that time I was housewife.

Q: Housewives can't have affairs?

A: I didn't say I had an affair.

Q: All right. When did you start having your affair?

A: Last year or year before last year.

Q: Year before last year?

A: Last year, I think.

Q: Could it have been in 2003?

A: No, sir.

Q: It had to be 2004?

A: Yes, sir.

Q: You spent weekends with your boyfriend?

A: When I am alone, yes.

Q: Have you had your boyfriend at your house?

A: No, sir.

* * *

Q: Your husband was very upset when he learned of your affair, was he not?

A: He upset, but he angry, too –

Q: He was upset and angry?

A: Yes, he was.

* * *

(Cross-Examination)

* * *

Q: All right. And you acknowledge you began a relationship with Mr. Ivie last summer; is that true?

A: Yes, sir.

Q: And you and Mr. Ivie had one occasion where you each were at the bowling alley one time at the end of last summer; is that true?

A: Yes, sir.

Q: Have you brought the children around Mr. Ivie around the children whatsoever during the pendency of this divorce? During this divorce, have you brought the children around Mr. Ivie?

A: No, sir.

Q: All right. Has Mr. Ivie been around the children at all?

A: No, sir.

Q: Have the children ever seen you or Mr. Ivie act inappropriately in any way?

A: No, sir.

* * *